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SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February 1993

CONTENTS

		Paragraphs	Page
Introduction		1 - 4	3
I.	ETHNIC CLEANSING OF THE EASTERN ENCLAVES	5 - 42	3
A.	The early stages	5 - 7	3
B.	Cerska	8 - 17	4
C.	Konjevic Polje	18 - 24	6
D.	Alleged ambushes of civilians fleeing the enclaves	25 - 29	7
E.	Srebrenica	30 - 40	8
F.	Gorazde and Zepa	41 - 42	10
II.	ALLEGATIONS REGARDING THE GOVERNMENT OFFENSIVE OF DECEMBER/JANUARY 1993	43 - 50	10
III.	THE HUMANITARIAN SITUATION OF THOSE FORCIBLY DISPLACED IN THE EAST	51 - 62	12

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CONTENTS (continued)

		Paragraphs	Page
IV.	FORCED RECRUITMENT	63 - 67	14
V.	THE SITUATION OF SERBS IN TUZLA	68 - 85	14
VI.	CONCLUSIONS	86 - 93	18
VII.	RECOMMENDATIONS	94 - 96	19

Introduction

1. The Special Rapporteur was appointed by the Commission on Human Rights in August 1992 to investigate first-hand the human rights situation in the territory of the former Yugoslavia. By its resolution 1993/7 of 23 February 1993 the Commission on Human Rights decided to renew the mandate of the Special Rapporteur for one year and requested that he "continue to submit periodic reports as the situation warrants". The present report was made necessary by recent events in eastern Bosnia and Herzegovina. 1/

2. A team of the Special Rapporteur's field staff visited Bosnia and Herzegovina from 1 to 16 April to gather first-hand information regarding alleged recent violations of human rights and humanitarian law in the eastern part of the country. This report is based on interviews conducted with eye-witnesses and information gathered from local and international organizations which are active in the field.

3. From the information presented in this report, it is clear that further investigation of these allegations should be carried out. It is particularly regrettable that, due to the fact that permission was not forthcoming from the authorities of the Federal Republic of Yugoslavia, it was impossible to collect testimonies from those Serbs from eastern Bosnia and Herzegovina who have sought refuge in the Federal Republic.

4. In addition to the events in eastern Bosnia and Herzegovina, the Special Rapporteur would like to draw attention to the following:

(a) It has been alleged by credible sources that serious violations of international humanitarian law were committed during the recent hostilities between government and Croat forces in central Bosnia and Herzegovina;

(b) Ethnic cleansing continues with the harassment and intimidation of non-Serbs in places such as Banja Luka and Bijelina, where it is feared that the process is nearing its conclusion;

(c) As a result of growing tension in Mostar, many Serbs wish to leave the area;

(d) There is also growing concern regarding the situation in various areas of the Federal Republic of Yugoslavia. This is particularly the case in Kosovo, where the recent imprisonment of Professor Ejup Statovci has added to increasing tension there;

(e) The situation of persons of Serb origin in Croatia and the significant restrictions on the freedom of the press there are both sources of grave concern.

I. ETHNIC CLEANSING OF THE EASTERN ENCLAVES

A. The early stages

5. The first wave of ethnic cleansing in eastern Bosnia and Herzegovina was carried out by Serb forces in April/May 1992. From the summer of 1992 until

February 1993, only three "pockets" or "enclaves" remained under government control in the east. For most of this period, the enclaves consisted of Cerska/Konjevic Polje; Srebrenica and Gorazde; and the Zepa area. During the whole of this period there were no independent observers who gained broad access to the area.

6. Attempts by the Office of the United Nations High Commissioner for Refugees (UNHCR) to provide humanitarian aid to the enclaves or to evacuate wounded from these enclaves were almost continuously thwarted from the outset, despite repeated assurances from leaders of Serb forces. Reasons proffered for denying or delaying access for convoys have included attempts by Serb forces to make such access conditional upon freedom of movement for Serbs from Government-held Tuzla. The issue is discussed elsewhere in this report.

7. In December/January 1993 government forces launched an offensive which resulted in the "enclaves" (excluding the Zepa area) becoming a single, much larger "enclave". On 1 March 1993 air drops of humanitarian aid by the United States of America began in coordination with the United Nations Protection Force (UNPROFOR) and UNHCR. These airdrops have undoubtedly saved lives, particularly in Srebrenica. Meanwhile, UNHCR continued its efforts to deliver 1,000 tonnes of supplies a day in all of Bosnia and Herzegovina, with the protection of UNPROFOR.

B. Cerska

8. The so-called Cerska enclave consists of a cluster of small hamlets dotted like satellites around the village of Cerska proper in a valley in eastern Bosnia and Herzegovina (the village of Cerska itself consists of upper, lower and middle Cerska), as well as the village of Konjevic Polje and surrounds.

9. In May/June 1992 Serb forces surrounded the area of Cerska using heavy artillery, tanks and aeroplanes (which were reportedly in use until August). A confrontation line was thereby established which remained virtually unchanged for seven months until December/January 1993. Infantry and heavy artillery attacks on these hamlets are reported to have been virtually non-stop after June 1992.

10. Accounts of life in the Cerska enclave during these seven months relate how villagers would try to work their fields at night in an attempt to avoid the shelling and snipers. Supply of food was thus reported to be one of the biggest problems in Cerska prior to its fall and there are many accounts of children dying of hunger. People reportedly ate horsefodder, leaves and the bark of trees. Shelling was constant, and people sought shelter from the winter in the corners of ruined houses or basements, in very overcrowded conditions. Some villagers lived in the woods during the summer and winter of 1992, returning to their homes only for an hour or two when the winter cold became unbearable at night. All the enclaves contained a large number of displaced people who had fled ethnic cleansing in their home areas.

11. There are reports of there being many wounded. Medical conditions were medieval, with little or no drugs or anaesthetics. Amputations were carried out without anaesthesia. Bandages, when available, were used and reused

without detergent or disinfectant. People died of the simplest injuries because of the lack of medical treatment while skin diseases, lice, gastroenteritis and hepatitis affected much of the population.

12. One eye-witness alleges that around early February, there were 300 displaced people from Vlasenica in the primary school in Cerska when it was shelled. About 10 of those inside were killed immediately and 50 injured. Those who tried to run to shelter nearby were allegedly shelled again. A male nurse in Cerska reportedly had to use hacksaws to amputate the destroyed arms or legs of the wounded. There was nothing to clean the wounds with except home-made brandy, nappies and bedsheets. It is not known how many of the wounded survived.

13. The pattern of the previous seven months was changed when Serb forces reportedly went on the offensive against the Cerska enclave from 15 January 1993 until the last village, Konjevic Polje, fell on or around 10 March 1993. One hamlet was taken at a time. Every day there were thousands of shells from the tanks in the surrounding hills. In hamlets such as Gobelje it is alleged that each house was individually targeted and people moved from house to house as the shelling progressed. Government forces would reportedly fall back to the next village, moving civilians back as they did so until that village was about to fall, too. Many of the witnesses had fled their homes with Serb forces right behind them. People who were unable to move, such as old people, invalids and the wounded, reportedly remained in the villages to be taken.

14. There are reports that some villages which had been very close to the front line, such as Velici, Grbici and Hodzici, fell so quickly that people were jumping out of the second-storey windows of their homes to escape Serb forces entering the villages. It was reportedly particularly difficult for women with small children to escape and it is alleged that, as a result, 50 to 100 people were killed by Serb forces in the villages of Velici and Muskici.

15. Just before most of the Cerska hamlets fell in early March, they were reportedly swollen with displaced people from places like Vlasenica, Sadic and Kamenica which had fallen to Serb forces by mid-February. When the time came to leave the village of Cerska proper, a member of the local civil defence is reported to have visited each house and calmly told people that the lines could not be held and that everyone should leave that night. It is reported that almost everyone who remained in Cerska village left in a group of about 10,000 people on the night of 1 or 2 March, using the trail towards Konjevic Polje along the river. One witness reports watching from the mountain above as Serb forces entered Cerska village with infantry, then tanks and then armoured vehicles: "The houses had already been destroyed by shelling, but even if a piece of a roof was intact the Serbs would set it on fire so that everyone else could see".

16. There appear to have been a small number of wounded and elderly people who could not be moved from Cerska village before it fell. The field staff of the Special Rapporteur met a 77-year old woman in Tuzla who had been "left behind" in such a manner in Konjevic Polje with her husband and six other old people in a house. Serb forces came into Konjevic Polje the next morning and

took them by lorry to a house at an unknown location. For about one month, the group was detained, interrogated and frequently told they should have been killed. The witness, her husband and another old woman were beaten. One morning, the group was told that they would be killed at midday. Instead, they were put on a lorry and delivered to the front line near Tuzla. At the time of the interview, the witness had bruises on her face and hands while her husband was in Tuzla hospital with severe head injuries as a result of the beatings.

17. The fate of those persons who reportedly could not be moved from Cerska village is unknown, including those who were reportedly left in or near the primary school.

C. Konjevic Polje

18. The taking of Cerska by Serb forces, hamlet by hamlet, lasted from February to early March. Women and children fled Cerska in greater and greater numbers as the hamlets were taken. Around 5,000 people made it to Tuzla on foot during January/February but the majority left later and fled in the direction of Srebrenica, many stopping in Konjevic Polje before fleeing the attack there. It is an almost constant theme in witnesses' accounts of these journeys through deep snow that they were unable to use even mountain trails because of shelling. By the time Konjevic Polje fell in mid-March, food was thus in very short supply and women reportedly begged for food for their children from house to house.

19. As Cerska was being taken, amateur radio operators, the only source of information available at the time, alleged that civilians were being massacred, but without giving details. This information received wide international attention. In a letter of 4 March 1993 addressed to its Chairman, the Special Rapporteur drew the situation to the attention of the Commission on Human Rights, which was in session at the time. The following day, 5 March, Serb forces agreed to allow UNPROFOR access to Cerska.

20. Lt. General Philippe Morillon, Commander of UNPROFOR in Bosnia and Herzegovina, arrived in Konjevic Polje on the evening of 5 March 1993, with representatives of UNHCR, the World Health Organization (WHO) and the International Committee of the Red Cross (ICRC), as well as United Nations Military Observers (UNMOs) and members of UNPROFOR. This was intended to be a fact-finding mission to Cerska, most of which had fallen in the previous days, save for a few hamlets. Witnesses who were in Konjevic Polje at the time recalled their delight at the arrival of UNPROFOR, especially as the shelling of the village diminished. They report, however, that it was not possible to discuss the events which had allegedly taken place in Cerska with General Morillon.

21. The shelling of Konjevic Polje intensified when General Morillon left Konjevic Polje on 6 March. On 11 March 1993 a group of United Nations relief workers escorted by two armoured personnel carriers (APCs) from the British Battalion of UNPROFOR were allowed to enter Konjevic Polje. The aim was to evacuate those wounded persons who urgently required treatment and who had been identified on the earlier visit. However, Serb forces refused to allow

UNHCR to bring in ambulances or trucks, limited the medicines that could be brought in and refused to allow any men between the ages of 16 and 60 (wounded or not) to be evacuated.

22. The United Nations team reported finding thousands of people clamouring to be evacuated while preventing the British troops from leaving. A crowd of at least 2,000 civilians gathered around the two UNPROFOR vehicles and both the crowd and the vehicles were deliberately shelled by Serb forces. One of the APCs was destroyed by an almost direct hit just moments after its occupants had moved to the other APC. According to eye-witnesses, at least 150 women and children, most of whom had fled intense shelling in Cerska in the previous days, were killed outright by this bombardment. Several children were decapitated. There is no accurate figure for the number of wounded who lost arms and legs.

23. After one day and one night the British were able to leave when a brief break in the shelling was negotiated to allow them to do so. The destroyed APC remained in the village. In the event, no-one was evacuated - neither those on the original list of urgent cases drawn up during General Morillon's earlier visit nor those freshly wounded from the latest bombardment.

24. Witnesses said that when people saw that there was no protection from the United Nations, they decided to leave Konjevic Polje. After the UNPROFOR vehicle left, people reportedly ran in all directions and couldn't help the wounded or bury the dead. They left with their children on foot over the mountains, heading towards Srebrenica, seeking safety. According to an eye-witness: "The crowd was so huge that you couldn't see the end of the people. There was shelling from everywhere. It was incredible, a shell would fall behind you and members of the same family would leave their child on the road and take care of the other children once they were sure that the other child was dead."

D. Alleged ambushes of civilians fleeing the enclaves

25. Many civilians are reported to have tried to escape the encirclement of the Cerska enclave, especially in the direction of Tuzla, since the beginning of the war. There are allegations that Serb forces ambushed civilians at Cerni Vrh, Baljkovica, Debelo Brdo, Susica, Rogosija and Ilijino Brdo.

26. In the summer of 1992 a group of several thousand civilians are reported to have tried to leave the enclave of Cerska, walking slowly with wounded people and children, heading for Kalesijce. After two days and two nights of mountain trails and when only 20 minutes from their goal, the group was allegedly surrounded in the woods at Balcovici by Serb forces. Witnesses report being attacked by aeroplanes mounted with machine-guns, with "bullets flying everywhere". Some people were allegedly captured by Serb forces, while 150 are alleged to have died in the attack. The group scattered and up to 15 days later people were still arriving back in Cerska after wandering in the forest.

27. At the end of December, a group of about 2,000 civilians were allegedly attacked with machine-guns at the village of Baljkovica and when people started to run, they were followed into the woods by their attackers. Women

with more than one small child reportedly had to leave the others behind in order to run. It is not known how many people died in this attack.

28. Using another route to try to reach central Bosnia, one witness left Cerska on 14 February 1993 with a group of 34 people. They had passed Vlasenica and come to Debelo Brdo when they were allegedly ambushed. Serb forces are said to have jumped out in front of the group and to have attacked them with automatic weapons. The witness's father, mother and sister were allegedly killed in the ambush. After a journey of five days and a second ambush at Kljestani, four of the original group are reported to have reached Kladanj.

29. There were apparently only two routes by which to reach Konjevic Polje from Cerska: one was through the village of Babici and over Udrc mountain (1042 m) and the other was around the other side of Cerska valley via Ilijino Brdo, where the trail through the woods on the side of the mountain was better and flatter. It is alleged that people from the Cerska hamlets closest to the front line, which fell first, tried to reach Konjevic Polje by this route in early February. It is reported that entire villages would try to leave this way and one testimony estimates that 2,000 or 3,000 people had tried to use this route before it became known as an ambush point towards the end of February. Survivors alleged that on the trail they saw about 100 bodies of people who had recently died of shelling and small arms fire, before being attacked themselves.

E. Srebrenica

30. In early March the estimated population of the enclave of Srebrenica, including the surrounding villages, was 60,000, about half of whom were said to be in the town itself. The pre-war population of the town was estimated to be about 7,000. The enclave had been under siege for 11 months. No humanitarian aid had been allowed in by Serb forces since 11 December 1992.

31. Forcibly displaced people arrived in three waves, coinciding with offensives by Serb forces: from Vlasenica, then from Cerska/Kamenica/ Konjevic Polje, and finally from Osmace, Zelini Jadar and other villages to the south of Srebrenica. It is estimated that 25,000 to 30,000 people arrived in Srebrenica from the Cerska area alone. In addition, as the Srebrenica enclave itself fell to Serb forces, many more people arrived throughout March and April.

32. These displaced people were mainly women, children and old people. They were the most vulnerable in the Srebrenica enclave as they fell outside the support network of the village and town communities. Local authorities could not cope with this influx: basic shelter was not available, nor was there a systematic distribution of food. Many had to sleep rough in half a metre of snow and temperatures of -15° C.

33. Dr. Simon Mardel of WHO reported in March that 20-30 people were starving to death each day. This figure did not include the number of deaths from shelling. He stated that conditions were "indescribably appalling". Tens of thousands of people were subsisting on a diet of tree buds and cakes made from ground corn-cobs, a mixture that is painful to digest. He met one displaced

family who had not eaten in 4 days: "They were lethargic and weak. This group of people exists on food they beg from neighbours, or steal from Serb farms. Some families had members shot while attempting the latter. Others were making a two-day journey to Zepa if they had relatives there in order to beg food for their families. These journeys to villages and Serbian farms could only be undertaken by the fittest family member ...".

34. People would wait all night for the air drops of food in sub-zero temperatures and the desperation was such that gun fights and knifings were common. Recently, the more regular arrival of road convoys has alleviated the food supply situation considerably.

35. The only surgeon in the enclaves was in Srebrenica. An average of 5 people were dying each day from infection and as many as 30 wounded were admitted to the hospital each day. With no general anaesthetics or antibiotics, limb amputations were performed using a razor-blade and a hacksaw.

36. UNHCR had repeatedly demanded, and Serb forces had repeatedly agreed, to allow aid into, and the evacuation of the wounded from, Srebrenica. These verbal and written commitments were repeatedly dishonoured. On 12 March 1993 General Morillon arrived in Srebrenica with a small team hoping to negotiate a cease-fire, access for aid convoys and an increased UNPROFOR presence in the town. He announced that he would stay until these were agreed. On 19 March, after being held up for nine days by Serb forces, a United Nations aid convoy reached Srebrenica for the first time since December.

37. Evacuations from Srebrenica were eventually permitted at the end of March. Evacuation of the wounded by helicopter had to be suspended when Serb forces shelled the landing strip in Srebrenica, killing several of those to be evacuated and wounding two UNPROFOR personnel. Despite the best efforts of UNHCR and the handful of UNPROFOR and Médecins Sans Frontière (MSF) personnel in Srebrenica, the task of organizing convoy evacuations was impossible without more international staff in the town. This need for an increased presence was denied by Serb forces. People were so desperate to leave that a number of people were crushed in the rush to get on the trucks, notably with the convoy of 2 April.

38. On 12 April at least 56 people were killed and 106 wounded by shelling in Srebrenica. At this juncture, the Security Council adopted resolution 819 (1993) of 16 April 1993 by which it demanded "that all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act". The following day, the commanders of both the Government and Serb forces signed an agreement to "demilitarize" Srebrenica. The key points of the agreement were:

(a) A total cease-fire in the Srebrenica area;

(b) The deployment of a company of UNPROFOR soldiers;

(c) The opening of an air corridor for the evacuation of the seriously wounded and ill to Tuzla;

(d) The demilitarization of Srebrenica within 72 hours of the arrival of the UNPROFOR company, with all weapons, etc. inside the town to be handed over to UNPROFOR;

(e) Neither side would hinder the freedom of movement. UNHCR and ICRC were to investigate allegations of hindrance of movement in Srebrenica and Tuzla in particular;

(f) Humanitarian aid was to continue to be allowed into the city as planned; and

(g) An exchange of prisoners, bodies and the wounded, according to the principle of "all for all", was to take place under the control of ICRC.

39. The UNPROFOR presence was duly increased and about 600 wounded were evacuated by helicopter, in accordance with the agreement. UNPROFOR has declared the demilitarization of the town to be complete. The town is no longer being shelled. Convoys of humanitarian aid have gained daily access to the town since the agreement was signed and air drops continue. While the situation has been greatly improved, serious problems, such as overcrowding of the "safe area" remain. The original population accommodated in the town was approximately 7,000. With many buildings destroyed by shelling, the town must now find shelter for an additional 30,000 displaced people. Furthermore, the town's water is now drawn from two springs which are inadequate to meet the needs of this population.

40. The officers and staff of UNPROFOR, as well as the staff of UNHCR, WHO, ICRC, MSF and the drivers of the humanitarian convoys who daily risk their lives, deserve the admiration of all for their bravery in attempting to relieve the suffering of civilians, particularly in the enclaves.

F. Gorazde and Zepa

41. There now remain two Government-held enclaves in eastern Bosnia and Herzegovina. The Zepa enclave is an isolated mountain community consisting of Zepa village, with a population of 9,000 as well as 38 satellite hamlets. The total population of the enclave is 29,000, including displaced people. In contrast, the Gorazde enclave is in a position of strategic importance on the River Drina. The town had a pre-war population of 40,000. However, the enclave now accommodates 70,000 including the outlying villages and those displaced from surrounding areas.

42. Both of these enclaves are being shelled and both had been denied convoys of humanitarian aid for two months until a convoy arrived in Gorazde in early May. Although food is being air-dropped, this is not sufficient. It is reported that every night up until mid-April, between 600 and 1,000 people would make the 42-km journey from Gorazde to Grabac village to eat and to find supplies to carry back to their families. This route is reportedly now cut.

II. ALLEGATIONS REGARDING THE GOVERNMENT OFFENSIVE OF DECEMBER/JANUARY 1993

43. Around April 1992 Serb forces began ethnic cleansing of the Bratunac area of eastern Bosnia and Herzegovina. Many Muslims fled to Srebrenica, 10 km to

the west. It is reported that in the following 11 months, government forces, operating mainly from Srebrenica, launched raids on Serb villages in the Drina valley, attacking civilians, including those attempting to flee into the Federal Republic of Yugoslavia, as well as destroying dozens of Serb villages.

44. It is further reported that there was a government offensive in this area from mid-December to January 1993. By the end of January the Srebrenica pocket had reportedly extended northwards almost to the Drina, within 15 km of Zvornik and with strong links to the Cerska/Konjevic Polje enclave.

45. When Serb forces launched their major offensive against the eastern enclaves in February they allegedly discovered up to nine mass graves in the villages and hamlets around Bratunac, which were retaken from government forces. It is alleged that the graves contain the remains of Serb civilians and/or combatants who were arbitrarily executed by government forces, particularly during the December/January offensive. Some of the victims are also alleged to have been tortured. Such alleged mass graves have reportedly been found in, for example, Milici, Kamenica, Kravica and Konjevic Polje.

46. There is a dearth of information about this offensive as no independent observers were accorded access to the area. However, there are reliable reports that many Serb villages were deliberately torched while approximately 5,000 refugees fled from this area across the River Drina into the Federal Republic of Yugoslavia in January 1993. It is said that many still remain in Ljubovija (Federal Republic of Yugoslavia) as their homes in Bosnia and Herzegovina have been destroyed.

47. In view of the gravity of these allegations interviews by the Special Rapporteur's field staff with potential witnesses who had sought refuge in Ljubovija were envisaged. It had also been hoped to visit Belgrade, where the forensic department of the military hospital as well as the Commission for War Crimes and Genocide of the Ministry of Justice are reported to be gathering information regarding these allegations.

48. In a letter dated 30 March 1993 addressed to its Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva, the Federal Republic was requested by the Special Rapporteur to cooperate in this endeavour. This request was reiterated by subsequent <u>démarches</u> made by the Centre for Human Rights on behalf of the Special Rapporteur. The Federal Republic of Yugoslavia was kept fully informed of the intention of the Special Rapporteur to investigate alleged human rights violations on all sides and of the mission schedule of his field officers.

49. No reply was received regarding the request for access to Serbs from eastern Bosnia and Herzegovina. However, the Special Rapporteur was informed by means of a fax received on 9 April of new visa regulations which prevented the field staff having access to the area. The Special Rapporteur regrets that this effectively precluded a timely and objective investigation of the allegations by the Special Rapporteur's field staff and that it was not possible to include the results of the envisaged inquiry in this report.

50. Exhumations and forensic examinations of the alleged mass graves have reportedly been undertaken by a local doctor and a military forensic

pathologist provided by the Federal Republic of Yugoslavia. The experts carrying out this work are reportedly willing to have an objective international expert accompany the forensic examination of the bodies to certify and record all the medical findings. It is desirable that the services of such an international forensic expert be made available.

III. THE HUMANITARIAN SITUATION OF THOSE FORCIBLY DISPLACED IN THE EAST

51. Central Bosnia and Herzegovina, especially Tuzla, is prepared for an influx of up to 30,000 displaced people from Srebrenica now that it has been declared a "safe area". The town of Tuzla already has a dislaced population of 60,000, ie., a ratio of 1:1 with the original residents. The Tuzla "finger" as a whole is said to have received 200,000 displaced people since the beginning of the war.

52. About 10,000 displaced people have been evacuated from Srebrenica to Tuzla in convoys which began at the end of March. Contingency plans to spread the displaced people among the municipalities around Tuzla have been made. The warm, well-organized reception of these convoys at the Medjan sports centre in Tuzla is the result of close cooperation between UNHCR, IRC and the local authorities. This smooth organization, with medical checks, ambulances on standby, food and bedding, is born of extensive experience. In 10 months, approximately 57,000 forcibly displaced people have passed through this sports centre.

53. The new arrivals are all registered to facilitate their family reunification. The tragedy of family separation is vividly demonstrated by the thousands of people who arrive to greet each new convoy, searching for the faces of missing relatives.

54. Orphans and unaccompanied children represent a particular concern. While exact figures for the number of children who have been evacuated from Srebrenica are not yet available, an indication may be gained from the breakdown of one group who are now accommodated in a former primary school in Lukavac. In the group there were 260 adults (aged 14 to 60 years) but over 100 children less than 1 year old; 45 aged 1-2 years; 63 aged 2-4 years and 220 aged 4-14 years.

55. UNHCR and the United Nations Children's Fund (UNICEF) have a joint policy concerning the evacuation of children from war-affected areas which advocates that every effort must be made to evacuate them with family members. 2/ However, the clearly desperate situation in Srebrenica led to a number of children being evacuated without a family member, while others are orphans or had previously been separated from their families. Of critical concern regarding these vulnerable children is the protection of their names and identities through adequate record-keeping, as well as their psychological and social well-being.

56. On arrival at Tuzla some of the displaced people stay at the sports centre for one night while others in the convoy go directly to their reception centres in the neighbouring municipalities. The problem of accommodating the influx has been acute from the beginning. Some 10,000 of the displaced are in collective centres in the municipality of Tuzla but only 2 out of 25 of the

Tuzla collective centres have been adapted for this purpose. Most of these centres are school buildings whose sanitation and electricity supply urgently require adaptation. In one of the better collective centres 241 people sleep an average of 28 to a room, including 82 children under the age of 14.

57. The vast majority of Tuzla's displaced, that is 50,000 people, have been placed in private accommodation in Tuzla municipality and in neighbouring municipalities. Decrees have reportedly been issued by local authorities obliging those with extra space in private accommodation to accept displaced people into their home or weekend house. There is reportedly no extra assistance for local people who do so.

58. Stocks of food in the Tuzla area were used up last summer. There has been an inadequate response by the international community to the UNHCR and World Food Programme (WFP) appeals to finance the humanitarian programme in Bosnia and Herzegovina. As a result, and with renewed fighting in central Bosnia recently, the food supply in Tuzla is extremely precarious. Some of the collective centres live from day to day with only UNHCR's supplies of food, providing only two meagre meals a day; soap and detergents are urgently needed.

59. The other physical needs of the displaced, especially those now arriving via Srebrenica, are great: about 60 per cent have scabies or lice, some are wounded and there are many amputees. While the immediate priority must be the provision of food, shelter and medical care, the psychological needs of the displaced are also very great. This report has illustrated the methods by which these people have been forced to leave their homes. Many have lost everything: home, loved ones, health, and very often they have lost all faith in the future. They generally arrived from Srebrenica with nothing more than the clothes on their backs. Many have a relative who is missing or in detention and their fear and sense of crisis is said to be most acute. Trauma in children reveals itself in disturbed, disobedient behaviour, they suffer from nightmares and may lose control of their bodily functions. Psychosomatic illnesses have been identified while medical services are suffocated.

60. Their trauma is exacerbated by the fact that they are mainly from rural areas with a distinct way of life and traditions. They are mainly young women who are used to hard work and the outdoor life. Suddenly they find themselves in new surroundings, in often poor and overcrowded accommodation with nothing to do except sit and eat. Some of the early wave of displaced people to arrive in Tuzla have been living like this for a year.

61. Attempts have been made to continue with school classes for the displaced as well as the local population, but these efforts are made increasingly difficult by the continuing influx from Srebrenica. Local authorities have been forced to use all school space available to accommodate people. However, efforts continue to find space in bomb shelters, etc. for such classes.

62. The whole economy of Bosnia and Herzegovina is in collapse and unemployment is high. Those who are employed in Tuzla may receive the equivalent of 1 or 2 DM per month and perhaps a food parcel. Many heads of families have been killed, are detained, are missing or are involved in

combat, either voluntarily or forcibly. Consequently, those fragmented families who remain behind have little or no income and must survive on their savings or on the tiny food allowance provided by the local municipal authorities. As the war continues the number of destitute civilians is growing rapidly and all are desperate, regardless of their ethnicity.

IV. FORCED RECRUITMENT

63. The Special Rapporteur is particularly concerned by reports of forced mobilization by all parties to the conflict in Bosnia and Herzegivina. The issue is also of great importance in other areas of the former Yugoslavia.

64. Men are being forcibly recruited by Serb forces in places such as Banja Luka, where it serves as an instrument of ethnic cleansing. A refusal of such military service is often a prelude to harassment and intimidation for those who resist, as well as for their families.

65. This is illustrated by a decree originating in Pale and issued recently to local authorities in Banja Luka. It is reported to provide that if one member of a family does not answer the call to military service, other members of their family will be punished by being dismissed from any post they may have. As a consequence of such dismissal, not only is the source of income lost, but a family's accommodation, medical and education facilities are also jeopardized. Such punishment forces families onto the street, facing destitution.

66. The Government of Bosnia and Herzegovina reportedly regards any attempt to avoid military service as an offence and does not provide civilian service as an alternative. Furthermore, there are reports that the obligation to perform military service is being used as a pretext to prevent Serb men and women who wish to leave Tuzla from doing so. While women are reportedly not in fact forcibly conscripted into government forces, they are told that they must remain available in Tuzla for such an eventuality.

67. Furthermore, there are widespread allegations that all parties to this conflict are forcing those who refuse military service to dig trenches on the front lines.

V. THE SITUATION OF SERBS IN TUZLA

68. In 1991, the population of the municipality of Tuzla was 132,000 of whom, 48 per cent were Mulsim, 16 per cent Croat, 15 per cent Serb and 21 per cent others. In the first free elections in Bosnia and Herzegovina, Tuzla was the only town to elect a representative from a party whose members included all ethnic groups. A multi-ethnic society without discrimination on grounds of nationality is the stated ideal of the civilian authorities in Tuzla.

69. However, serious allegations regarding the present treatment of Serbs in the Tuzla area were made, in particular during the negotiations with Serb forces regarding access for humanitarian aid to Srebrenica. Negotiators for the Serb forces alleged that their situation was desperate and that almost all the 18,000 Serbs said to be in the Tuzla area wished to leave.

70. Meetings and interviews were conducted with Serb groups from Tuzla town as well as out-lying areas by field staff of the Special Rapporteur in early April 1993. Based on these and on the experience of international actors with extensive contacts with the Serb minority there, it is clear that a number of Serbs wish to leave Tuzla town. The overwhelming reason for leaving the town appears to be the wish for family reunification. Other reasons proffered include the need for medical treatment and the wish to escape the general privations of the war. It has not been possible to confirm allegations of large-scale discriminatory dismissals from work of Serbs. In most cases the lack of work appears to be due to the closure of businesses because of the war. The unemployment and food shortages in Tuzla are described elsewhere in this report. All persons receive the same official rations without discrimination and although problems such as economic privation and separation of families are widespread and serious, they are experienced by all groups. There are, however, three problems which affect Serbs in particular.

71. The first major cause for concern to Serbs living in Tuzla and its surrounds is their forced mobilization to fight in government forces. It is to be expected that there are also Muslims who wish to leave Tuzla to avoid the draft although it is not possible to estimate their numbers. In Tuzla town, those who refuse to be drafted into government forces are imprisoned for 3 to 10 years after a speedy trial. In this regard, there appears to be a difference of treatment between Serbs in Tuzla town and those Serbs who live in the surrounding areas. It is repeatedly alleged that those among the latter group, in particular those in Banowici, who refuse the draft are mobilized by force and sent to the front line to dig trenches.

72. The second problem of particular concern to Serbs is psychological pressure in the form of abuse from neighbours and colleagues, and the allegedly constant use of the term chetnik. It is disturbing to note that a newspaper called Zmaj od Bosne (The Dragon of Bosnia) which has published articles clearly inciting hatred against Serbs is openly on sale in Tuzla. While it has not been possible to ascertain its circulation figures, it is readily available and is evidently tolerated by the authorities. Several issues were obtained by the Special Rapporteur's field staff. One example of such incitement may illustrate the point. On 1 April 1993 an article was published which stated, "Instinctively every Muslim would wish to save his Serb neighbour instead of the reverse, however, every Muslim must name a Serb and take an oath to kill him".

73. A distinction must be made between the situation facing Serbs in the area of Tuzla in the early stages of the war in Bosnia and Herzegovina and the present situation. After the war began it appears that a number of Serb villages took up arms against the government. Where the fighting was put down by Government forces the villages were reportedly destroyed, with houses robbed of their contents and burned. This was allegedly also the case with some Serb villages which had not taken up arms against the Government.

74. The Serb population in Banovici, a town south of Tuzla, were among the group which did not take up arms against the Government. The number of Serbs in pre-war Banovici is estimated to have been 4,453, of whom 1,100 are said to remain. In the late spring and summer of 1992 the Banovici authorities are reported to have rounded up large numbers of people, apparently at random, and

detained them for questioning about weapons. There are serious allegations of beatings and torture during these interrogations and some Serb detainees are alleged to have died from their injuries. The searching of houses and the seizure of weapons resulted in around 850 people being charged with illegal possession of weapons or a similar offence. Some of these Serbs are reportedly still awaiting trial.

75. Thus, the summer of 1992 was very tense for Serbs in Banovici with harassment and restrictions on their movement. The situation has by all accounts improved since then but there is still some tension. In marked contrast to the atmosphere among Serbs in Tuzla town, it appears that most of the Serbs in Banovici are fearful and would like to leave for this reason. It is alleged that Serbs are regularly harassed by the authorities by being arrested, detained and questioned for short periods such as one day. It is also alleged that beatings regularly form part of such harassment. It was clear from those Banovici Serbs who were interviewed that some are afraid to call attention to themselves, especially by requesting an exchange. They fear that this would lead to increased harassment and possible eviction from their homes.

76. The reasonableness of this fear is illustrated by an incident which occurred on 9 April when a UNHCR representative and two members of the Special Rapporteur's team were invited to meet the former Secretary of the Serbian Democratic Party in his home in Banovici. After about one hour of discussions the meeting was interrupted by two uniformed military policemen who entered the house. The three staff members of the United Nations were informed that they were being arrested as they needed the permission of local authorities to make private visits. After following the police car to the yard of the police station a discussion ensued which involved the Chief of the Criminal Investigation Division and about seven other uniformed policemen. After an hour and a half had elapsed it appeared that a higher authority was contacted and the three were released. While the police did not behave in an overtly threatening manner, it is clear that a Serb who draws the attention of the authorities to himself runs a certain risk.

77. Allegations have been made that the inhabitants of several isolated Serb villages are under virtual house arrest. This is the case with the village of Stupari where Serbs are being arbitrarily detained without trial. Two Serb prisoners interviewed in Tuzla prison stated that they had been detained by authorities in Stupari and confined to one building there from 28 May 1992. They allege that no legal basis for their detention was ever presented to them. In February 1993 they were transferred to Tuzla where they were immediatly tried and convicted for illegal possession of weapons. They were sentenced to one year's imprisonment as of 17 February 1993. The judge allegedly informed them, when passing sentence, that he could not take account of the period of nine months already spent in detention as there were no official documents stating that they had been so detained.

78. It should be noted in this context that where the freedom of movement of Serbs in outlying villages is restricted, the authorities allege that this is for their own protection, implying that there is some threat from their Muslim neighbours.

79. A third problem faced by Serbs in the Tuzla area is their fear for the future. The possibility of social tension between the local population and the influx of displaced people has particular significance for Serbs there. In the light of their treatment last summer these fears may seem reasonable. The prospect of a further large influx of displaced people from Srebrenica, people who have undoubtedly suffered greatly at the hands of Serb forces, is also fuelling their concern over possible future developments. One group of Serbs who were interviewed emphasized that they were hostages; they felt that non-Serbs did not want Serbs to live with them, while the authorities would not allow them to leave. This group, especially those who are separated from their families, was not daunted by the prospect of giving up their possessions and asserted that they were prepared to go "on foot and in pyjamas". They pointed out that if they had wanted to fight they could have done so and some stated that they would rather go to jail than fight for either side: one said that he "can't forgive those shooting at us and can't forgive those forcing us to fight".

80. The question of the movement of Serbs from Tuzla is a very complex and sensitive one. Around the end of January it was reportedly announced on Tuzla radio that applications for exchange were invited from all Serbs wishing to leave Tuzla. It has been said that approximately 2,500 applications were received but nothing further appears to have been done about the matter.

81. On 20 March General Morillon visited Tuzla and negotiated with the President of the Regional Assembly, asking that the commitment to freedom of movement made earlier by the Government of Bosnia and Herzegovina be demonstrated. It was made known that, as a result of this meeting, "a certain number" of Serbs would be allowed to leave. The local authorities would select those to go on the basis of information they already had, and with the help of the local Red Cross.

82. It is reported that the local authorities later decided on three criteria for those wishing to leave: urgent medical cases, foreign nationals and those seeking family reunion. A new committee would be set up to apply these criteria, other than the existing Committee for the Exchange of Prisoners of War. Procedures for this committee have not as yet been published. The fact that the whole process is regarded as unfair by some Serbs may be due partly to this lack of transparency.

83. On 24 March a group of 46 Serbs whose evacuation from Tuzla was specifically requested by Serb forces was undertaken. They were reportedly allowed to leave on medical grounds or because they were foreign nationals. A list of about 270 Serbs whom Serb forces wished to have evacuated had been provided. It is reported that some, but not all, of those on the list wish to leave. This was intended to be the first in a series of movements of Serbs from Tuzla and since then, several groups have been allowed to leave. On 25 March UNPROFOR began a short-lived helicopter evacuation of the sick and wounded from Srebrenica.

84. Freedom of movement in Tuzla was referred to in the "demilitarization" agreement for Srebrenica signed on 17 April. The process of allowing Serbs to leave Tuzla in small numbers appears to be continuing.

85. In the present context, fears have been expressed that Serbs who leave Tuzla will take up arms against the Government. This argument does not apply to those many women and children who wish to leave Tuzla. The argument may appear to have some justification regarding male Serbs when it is recalled that some Serb villages did take up arms in the early stages of the war. Those involved in such activities may be captured and treated as prisoners of war or charged with relevant criminal offences such as illegal possession of weapons and if found guilty after a fair trial, imprisoned. However, the Government is not entitled to restrict the freedom of movement of thousands of people simply because they belong to a particular ethnic group. This would be unlawful discrimination and in breach of the international humanitarian law prohibition of collective punishment.

VI. CONCLUSIONS

86. Now that international access to some parts of eastern Bosnia and Herzegovina is possible, the enormity of the suffering of the civilian population is being revealed. The tragedy knows no ethnic boundary.

87. Massive and repeated violations of the Geneva Conventions of 1949 were perpetrated in recent combat in eastern Bosnia and Herzegovina. These were carried out by Serb forces in Cerska, Konjevic Polje and Srebrenica in attacking and ambushing civilians attempting to flee their encirclement; in attacking the villages themselves; in refusing to allow humanitarian aid to enter; in refusing to allow the evacuation of the wounded; in attempting to link the above issues to the independent question of freedom of movement for Serbs in Tuzla.

88. Violations of the Geneva Conventions were perpetrated by government forces when they refused to allow the evacuation of the civilian population from Srebrenica, thus attempting to use them as a human shield. Civilians must be protected from what their own, as well as enemy forces regard as militarily expedient.

89. Serious allegations have been made against government forces regarding their offensive of December to January 1993. The facts can only be verified through an impartial investigation with the presence of international observers.

90. The decision of the Security Council and the parties to the conflict to make Srebrenica a "safe area" may save many lives there if the spirit of the agreement is fully adhered to. The vast majority of the approximately 10,000 people who have been evacuated from Srebrenica, as well as the great majority of those who remain there, had already been forcibly displaced from other areas. Such evacuations are not ethnic cleansing but an attempt to save lives. In any event, the right to flight, together with its corollary, the right to seek asylum, must be guaranteed, especially in war situations.

91. In the region of Tuzla, especially in Banovici, a number of Serbs are the target of discrimination and harassment. Their freedom of movement has been severely restricted, in itself a violation of their human rights. The antidote to ethnic cleansing is not to force people to stay where they are. Furthermore, the idea of a "linkage" between the provision of humanitarian aid

to Srebrenica and the evacuation of Serbs from Tuzla is to be condemned. Compliance with human rights and humanitarian law obligations by one party is not conditional upon compliance by others with their obligations: such obligations are absolute for each party and do not depend on reciprocity.

92. There is a deep humanitarian crisis in eastern Bosnia and Herzegovina. The lives and health of the tens of thousands of displaced people in the area, as well as of local inhabitants, are endangered. The international community has not responded adequately to the UNHCR/WFP appeals for funds to cover the survival needs of those in need of humanitarian assistance in the former Yugoslavia. 3/

93. The practice of forcible recruitment into military forces, as well as the punishment of the family of those who resist, are to be strongly condemned. All persons have the right to refuse to perform military service for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or other similar motives. Due to the nature of the present conflict as one fought in often complete disregard of international human rights and humanitarian law obligations, the recognition of the right to refuse to take part in such combat for reasons of conscience is particularly imperative.

VII. RECOMMENDATIONS

94. The Special Rapporteur recommends once again 4/ that human rights concerns be given priority in the peace process regarding Bosnia and Herzegovina. The credibility of the parties to the conflict must be measured by their willingness to comply immediately with the following:

(a) All detainees should be immediately released into conditions of safety;

(b) Blockades of cities and enclaves should be ended immediately and humanitarian relief corridors opened;

(c) The "safe area" concept should be expanded and applied to other areas of Bosnia and Herzegovina. This should immediately be the case with Gorazde and Zepa as the Special Rapporteur is concerned to ensure that the pattern of events in the other enclaves is not repeated. UNPROFOR should be accorded the necessary increase in personnel and resources to carry out this task;

(d) In any event, the right to flight and the right to seek asylum must be guaranteed by the parties as well as by the international community.

95. In context of the serious violations of international humanitarian law committed in Konjevic Polje, Srebrenica and now, apparently, in Vitez, which were directly observed by UNPROFOR personnel, the Special Rapporteur recommends, once again, that the mandate of UNPROFOR be expanded to entitle it to intervene in such cases. It should also be authorized to investigate complaints. Once again, an increase in UNPROFOR civilian staff and resources would be necessary.

96. The international community should respond immediately to the appeals for finance by UNHCR and WFP to ensure that their humanitarian aid programme for the former Yugoslavia, benefiting almost 4 million people, is not put in jeopardy. Greater priority should be given to providing financial aid to families hosting displaced persons or refugees. Funds and materials are needed to adapt or renovate buildings, especially schools, to accommodate displaced people; to promote productive activity essential for post-emergency recovery; to finance locally available experts to assist in the recovery of trauma victims, including children.

Notes

1/ The present report should be read in the context of those previously submitted by the Special Rapporteur (E/CN.4/1992/S-1/9; E/CN.4/1992/S-1/10; A/47/666; E/CN.4/1993/50).

2/ Everett M. Ressler, "Evacuation of children from conflict areas: considerations and guidelines", (UNHCR/UNICEF, Geneva, December 1992).

3/ See United Nations Revised Consolidated Inter-Agency Appeal for Former Yugoslavia, April-December 1993 of 11 March 1993.

4/ See E/CN.4/1993/50.